

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Serafin Munoz,)	
)	
Plaintiff,)	Civil Action No. 0:07-01656-MBS-BM
)	
v.)	
)	
Sumter County co William Noonan,)	
Lee County co Jimmy Lacoste,)	REPORT AND RECOMMENDATION
Simon Major Director SLRDC,)	
Dr Bush Medical Director,)	
Southern Health Partners co Phil)	
Mack,)	
)	
Defendants.)	
)	

The pro se Plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. The Defendants Bush and Southern Health Partners filed a motion for summary judgment on October 17, 2007, pursuant to Rule 56, Fed.R.Civ.P.. As the Plaintiff is proceeding pro se, a Roseboro order was entered by the Court on October 18, 2007, advising Plaintiff of the importance of a motion for summary judgment and of the need for him to file an adequate response. Plaintiff was specifically advised that if he failed to respond adequately, the Defendants' motion may be granted, thereby ending his case.

Plaintiff thereafter filed for an extension of time to respond, and by order filed November 20, 2007 Plaintiff was granted until January 21, 2008 to submit a response to the motion for summary judgment. Plaintiff was later notified by order filed January 29, 2008 that he had a further extension to February 11, 2008 to file a response. However, notwithstanding the granting of

these extensions and the specific warning and instructions as set forth in the Court's Roseboro order, the Plaintiff failed to respond to the motion. Other Defendants named in the case have also, since the filing of the motion for summary judgment on October 17, 2007, filed their own motions for summary judgment. Plaintiff has failed to file any response to those motions as well.

As the Plaintiff is proceeding pro se, the court filed an order on February 19, 2008, noting Plaintiff's failure to respond and that it appeared to the Court that he does not oppose these motions and wished to abandon this action. Plaintiff was granted an additional ten (10) days in which to file his response to the Defendants' motions for summary judgment, and was specifically warned that if he failed to respond, this action would be recommended for dismissal with prejudice for failure to prosecute. Davis v. Williams, 588 F.2d 69, 70 (4th Cir. 1978), Rule 41(b) Fed.R.Civ.P. The Plaintiff still did not respond, and has therefore failed to indicate that he wishes to proceed with this case or to prosecute this matter in any way.

Accordingly, it is recommended that this action be dismissed with prejudice for lack of prosecution.

The parties are referred to the Notice Page attached hereto.



Bristow Marchant
United States Magistrate Judge

Columbia, South Carolina

March 6, 2008



Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Court Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005).

Specific written objections must be filed within ten (10) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The time calculation of this ten-day period excludes weekends and holidays and provides for an additional three (3) days for filing by mail. Fed. R. Civ. P. 6(a) & (e). Filing by mail pursuant to Fed. R. Civ. P. 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
901 Richland Street
Columbia, South Carolina 29201

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985).